3. Security Bond/52

K 352.

File No. 82/52.

Legal department.

G **BRANCH**

Subject:—

P-10
B

Opinion on the Security Bond

File No. O. Security. Bond/52

Gen. 194 e.

82/52.

~~Exempt~~

C O N T E N T S

Legal Department File No. O.Security Bond/52

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S e.
V.R.K.
21/7/56

NKR 2717

PHS 2717

Office of the R.I.A.

Under the security bond Shri Dhanve and his two sureties have not only bound themselves in the sum of Rs. 500/- but for any additional amount that would be necessary to reimburse Government for the loss occasioned by any default of Shri Dhanve. The whole amount of Rs. 661-3-0 is therefore recoverable from Shri Dhanve and his sureties by means of a suit. It would be however advisable to file the suit after the prosecution is over. Fortunately no period is mentioned in the bond for which the bond should remain operative and therefore a suit on the bond is possible.

O/C 23/-
25/9

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G-490, dated the 25th September 1959.

4 c.
V.R.K.
21/7/60

Office of the R.L.A.

As advised by the R.L.A. in his opinion No. G.-363, dated the 3rd July 1951 only Rs. 1,000/- are recoverable under the bond in this case from the co-sureties. Therefore the order to credit Rs. 2,000/- to the Collector's R.L.A. out of recoveries from sureties' properties, is not legal

Once the amount of the bond is recovered from the sureties, it is not again recoverable from the principal debtor. The sureties will have a cause of action against the principal debtor and Government cannot recover under the bond anything as an arrear of land revenue on the bond from Shri Davdi. (Sec. 140 of the Indian Contract Act).

As regards the question of recovering the balance amount by filing of a suit, the view taken by the District Government Pleader, Bijapur is correct. Unless there be evidence to prove that the properties were acquired by the father or ancestors of Shri Davdi as the managing member of the family and that they were possessed jointly by all the members, and it is difficult to prove it in such cases - the property of Shri Davdi's father would be considered as his separate property and cannot be proceeded against for the debts of his son. (Section 57 of Mulla's Mohamedan Law).

O/C Sd/-
25/9

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G-489, dated the 25th September 1952.

4 c.
V.R.K.
21/7/56

Office of the R.L.A.

The following two questions are referred to the R.L.A. for advice:—

(i) Whether the bond taken from Shri Ulligeri on the 13th December 1945 would remain current during the break in service as godown keeper from the 1st February 1948 to 26th November 1948;

(ii) Whether the bond can be enforced for recovery of the amount in balance which in over the above the sum of Rs. 1,000/- already paid by the surety.

Taking the second question first it may be stated under the Bond the surety has bond himself in the sum of Rs. 1,000/- only or such smaller sum as shall be deemed sufficient to cover the loss which gGovernment may sustain by reason of the default of the godown keeper. The surety from whom Rs. 1,000/- arealready recovered is therefore not liable to pay anything more. In view of the fact that Shri Ulligeri has no moveable or immoveable property from which the balance of Rs. 770-14-2 could be recovered, the first question becomes of academic interest only and it is not necessary to consider it.

O.C. 31/-
29/10

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G-567, dated the 30th October 1952.

4 c.
V.R.K.
24/V/56

Office of the R.I.A.

The security bond appearing at page 7 ante is defective in as much as it is in favour of the Secretary of State and not in favour of the Governor of Bombay. Besides the short accountal of grain a took place during the period from April 1949 to June 1949 and the bond was executed on 29th July 1949 i.e. after that period. Therefore the bond does not apply to the present case. Government cannot therefore claim anything from the surty Shri Abdul Jamal under the bond. Shri Pardes, however, is liable for the short accountal under the general law. For recovery of the ~~Government~~ Government loss of Rs. 1,871-9-0 a civil suit can be filed against him after the prosecution against him is over.

O/C 3d/-
31/10

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. C-531, dated the 1st November 1952.

4 c.
V.E.P.
24/7/56